

Law limits liability suits against county employees

All local jurisdictions protected by limit of \$200,000 per individual claim

by Susan Singer-Bart | Staff Writer

Injury suits against Montgomery County and its employees are limited in liability by Maryland's Local Government Tort Claims Act of 1987.

The act limits liability to \$200,000 per individual and \$500,000 per total claims that arise from each incident. That means if 10 people are injured by negligence in one incident, for example, they would split a maximum of \$500,000.

The county is responsible for damage suits against local government employees acting within the scope of their employment without malice. The county, which is self-insured, is responsible for paying judgments of negligence or wrongful conduct, said Patricia Via, chief of the County Attorney's Office litigation division/self-insurance.

State Sen. Brian E. Frosh (D-Dist.16) of Chevy Chase is chairman of the Judicial Proceedings Committee.

"The cap is inadequate," he said. "It's highly contentious. Local governments don't want to raise it. It's a budget issue."

He estimates the county is sued under the law several times a week for incidents ranging from someone falling on a county sidewalk to someone being hit by a county bus.

The act provides injured residents with the ability to seek compensation while also protecting local government employees from multimillion dollar lawsuits.

Before the act was passed, victims could not sue local governments because of the sovereign immunity doctrine. The doctrine, which goes back to common law, prohibits suits against the government unless it voluntarily consents to be sued, Frosh said. Most states have similar laws with caps on damage awards varying by state, he said.

Del. Kathleen M. Dumais (D-Dist. 15) of Bethesda sits on the House Judiciary Committee.

"You want to see people have access to the justice system and made whole, but protecting government is a balance," she said.

The local act mirrors the state Tort Claims Act and the liability limit was raised in 1999 to be consistent with the local limit.

Local governments covered by the act include all Maryland counties, Baltimore City, municipal corporations, community colleges, county libraries, special taxing districts, nonprofit community service corporations and local housing authorities, according to the Maryland State Bar Association.

The damage limits in the local act have not been raised in years, Frosh said.

"Periodically trial attorneys come in and say, 'you've got to do something about it,' but there aren't the votes to change it," he said. "It's not sufficient in cases like [Jovel's] — \$400,000 doesn't cover it."

If Luis had been hit by a private citizen, the Jovel family would have been entitled to recover all his medical expenses and those expected in the future, Frosh said. Luis would have been entitled to recover lost income, which even at a minimum wage job would be in the millions, he said. He and his family would have also been entitled to noneconomic damages, such as pain and suffering and diminished quality of life, Frosh said.

The Local Government Tort Claims Act limits may be something legislators need to look at again, Dumais said.

Given the economy, "I wouldn't expect to see legislation come up this year," Frosh said.